

Honorable Robert H. Whaley

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**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF WASHINGTON AT SPOKANE**

JENNIFER LANE;

Plaintiff,

v.

GRANT COUNTY, a Washington
municipal corporation;

Defendant.

NO. 11-309 RHW

DEFENDANT'S ANSWER TO
FIRST AMENDED COMPLAINT

COMES NOW Defendant, Grant County by and through their attorneys of record, Jerry J. Moberg and Patrick R. Moberg and demands that this case be tried by a jury and enters this answer to Plaintiff's complaint as follows.

I. PARTIES

1.1 In answer to the allegations in paragraph 1.1 of the Complaint, Defendant is without sufficient knowledge to admit or deny whether Plaintiff was a

1 resident of Grant County “at all times material hereto,” and, therefore, **DENIES**
2 the same.

3 1.2 In answer to the allegations in paragraph 1.2 of the Complaint,
4 Defendant **ADMITS** the same.
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6 **II. JURISDICTION AND VENUE**

7 2.1 In answer to the allegations in paragraph 2.1 of the Complaint,
8 Defendant **ADMITS** the same for the purpose of jurisdiction only and **DENIES**
9 any remaining allegations.

10 2.2 In answer to the allegations in paragraph 2.2 of the Complaint,
11 Defendant **ADMITS** United States District Court for the Eastern District of
12 Washington is the proper venue for claim involving a federal statute or question.

13 2.3 In answer to the allegations in paragraph 2.3 of the Complaint
14 Defendant **ADMITS** the court has the discretion to exercise jurisdiction over any
15 related state law claims; Defendant **DENIES** any remaining allegations.
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17 **III. FACTS**

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19 3.1 In answer to the allegations in paragraph 3.1 of the Complaint,
20 Defendant **ADMITS** Plaintiff began working for Grant County in May of 1990,
21 and her final position was that of Director for the Prevention and Recovery Center
22 (PARC); Defendant **DENIES** any remaining allegations.
23

1 3.2 In answer to the allegations in paragraph 3.2 of the Complaint,
2 Defendant **ADMITS** Plaintiff requested leave in 2009 and **DENIES** any remaining
3 allegations. The Defendant further asserts that Plaintiff was not entitled to FMLA
4 leave because of the position she held with the County.

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6 3.3 In answer to the allegations in paragraph 3.3 of the Complaint,
7 Defendant **ADMITS** Plaintiff was granted leave several times during her
8 employment including in 2009 and **DENIES** any remaining claims. The
9 Defendant further asserts that Plaintiff was not entitled to FMLA leave because of
10 the position she held with the County.

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12 3.4 In answer to the allegations in paragraph 3.4 of the Complaint,
13 Defendant **ADMITS** the referenced letter speaks for itself. Defendant **ADMITS**
14 Plaintiff was a Key Employee under the FMLA definitions and that reinstating her
15 would cause substantial and grievous economic harm. Defendant **DENIES** any
16 remaining allegations. The Defendant further asserts that Plaintiff was not entitled
17 to FMLA leave because of the position she held with the County.

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19 3.5 In answer to the allegations in paragraph 3.5 of the Complaint,
20 Defendant **ADMITS** Plaintiff was a Key Employee and her reinstatement would
21 cause substantial harm. Defendant **ADMITS** merging PARC with Grant Mental
22 Health Care (GMHC) due to substantial budget cuts and reduced funding as well as
23 the ability to provide more services at less cost. Defendant **DENIES** any

1 remaining allegations. The Defendant further asserts that Plaintiff was not entitled
2 to FMLA leave because of the position she held with the County.

3 3.6 In answer to the allegations in paragraph 3.6 of the Complaint,
4 Defendant **DENIES** the same.

5 3.7 In answer to the allegations in paragraph 3.7 of the Complaint,
6 Defendant **DENIES** the same.

7 3.8 In answer to the allegations in paragraph 3.8 of the Complaint,
8 Defendant **ADMITS** the referenced letter speaks for itself and that Plaintiff was a
9 key employee who did not have the right to be restored to her position under the
10 FMLA. Defendant **DENIES** any remaining allegations.

11 3.9 In answer to the allegations in paragraph 3.9 of the Complaint,
12 Defendant **ADMITS** plaintiff was notified and given the opportunity to apply for
13 the position of Financial Director, but plaintiff declined the opportunity.
14 Defendant **DENIES** any remaining allegations.

15 3.10 In answer to the allegations in paragraph 3.10 of the Complaint,
16 Defendant **ADMITS** plaintiff was not restored to her position as she was a key
17 employee under the FMLA without the right to restoration. Defendant **DENIES**
18 any remaining allegations.
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1 3.11 In answer to the allegations in paragraph 3.11 of the Complaint,
2 Defendant **ADMITS** that its layoff policy speaks for itself and **DENIES** any
3 remaining allegations.

4 3.12 In answer to the allegations in paragraph 3.12 of the Complaint,
5 Defendant **DENIES** the same.
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8 **IV. FIRST CAUSE OF ACTION**

9 4.1 In answer to the allegations in paragraph 4.1 of the Complaint,
10 Defendant restates and realleges its responses to paragraphs 1.1 through 3.11.

11 4.2 In answer to the allegations in paragraph 4.2 of the Complaint,
12 Defendant **DENIES** the same.

13 4.3 In answer to the allegations in paragraph 4.3 of the Complaint,
14 Defendant **DENIES** the same.
15

16 **V. SECOND CAUSE OF ACTION**

17 5.1 In answer to the allegations in paragraph 5.1 of the Complaint,
18 Defendant restates and realleges its responses to paragraphs 1.1 through 3.11.

19 5.2 In answer to the allegations in paragraph 5.2 of the Complaint,
20 Defendant **DENIES** the same.
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23 **VI. THIRD CAUSE OF ACTION**

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1 6.1 In answer to the allegations in paragraph 6.1 Defendant restates and
2 realleges its responses to paragraphs 1.1 through 3.11.

3 6.2 In answer to the allegations in paragraph 6.2 of the Complaint the
4 Defendant **DENIES** the same.

5 6.3 In answer to the allegations in paragraph 6.3 of the Complaint the
6 Defendant **DENIES** the same.

7 6.4 In answer to the allegations in paragraph 6.4 of the Complaint the
8 Defendant **DENIES** the same.

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10 **VII. FOURTH CAUSE OF ACTION**

11 7.1 In answer to the allegations in paragraph 7.1 of the Complaint the
12 Defendant restates and realleges its responses to paragraphs 1.1 through 3.11.

13 7.2 In answer to the allegations in paragraph 7.2 of the Complaint this
14 paragraph is not an averment of fact but is a statement of the plaintiffs
15 understanding or belief regarding the law in the state of Washington and therefore
16 does not require an answer. To the extent that it alleges any violation of law on the
17 part of the Defendant the Defendant **DENIES** the same.

18 7.3 In answer to the allegations in paragraph 7.3 of the Complaint the
19 Defendant **DENIES** the same.

20 7.4 In answer to the allegations in paragraph 7.4 of the Complaint the
21 Defendant **DENIES** the same.

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2 **VIII. DAMAGES AND PRAYER FOR RELIEF**

3 8.1 Paragraph 8.1 appears to be a prayer for relief not requiring a
4 response. To the extend Plaintiff intended the paragraph to include allegations,
5 Defendant **DENIES** the same.
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7 BY WAY OF FURTHER ANSWER TO PLAINTIFF'S COMPLAINT,
8 AND IN THE FORM OF AN AFFIRMATIVE DEFENSE, DEFENDANT SETS
9 FORTH THE FOLLOWING:

10 1. **COMPARATIVE NEGLIGENCE:** The injuries and damages
11 alleged by Plaintiff were the fault of plaintiff and/or plaintiff's agents.

12 2. **FAILURE TO MITIGATE:** Plaintiff failed to mitigate her damages.

13 3. **FAILURE TO EXHAUST REMEDIES:** Plaintiff failed to exhaust
14 all available administrative remedies before filing her lawsuit.

15 4. **FAILURE TO STATE A CLAIM:** The complaint fails to state a
16 claim upon which relief can be granted. Specifically, Plaintiff was the Director of
17 PARC and was exempt from the provisions of FMLA leave.

18 5. **FRIVOLOUS:** The complaint is legally frivolous.

19 6. **LACK OF CONSIDERATION:** The contract and promise upon
20 which Plaintiff bases her claim for breach of contract lacks sufficient consideration
21 to be a binding.
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23 7. **PRIVILEGE:** Defendant's actions are privileged and because of the
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1 privilege, Defendant is not liable to Plaintiff for any damages.

2 8. **STATUTE OF LIMITATIONS:** The Plaintiff's claim against the
3 Defendants herein is barred by the statute of limitations.

4 WHEREFORE, Defendant having fully answered Plaintiff's Complaint
5 herein, pray that the same be dismissed with prejudice and held for naught,
6 Defendant be awarded attorney fees, costs and disbursements herein, and for any
7 further relief deemed just and equitable by the Court.
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10 RESPECTFULLY SUBMITTED February 3, 2012.

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13 JERRY J. MOBERG & ASSOCIATES

14 /S/ Patrick R. Moberg, via ECF
15 JERRY J. MOBERG, WSBA # 5282
16 PATRICK R. MOBERG, WSBA #41323
17 Attorneys for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Steven C. Lacy
steve@lacykane.com
stuart@lacykane.com

DATED February 3, 2012 at Ephrata, Washington.

/s/ Patrick R. Moberg, via ECF
Patrick R. Moberg, WSBA #41323
pmoberg@canfieldsolutions.com